

Construction Defect Attorney

Related Practices

Construction Law and Litigation

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- Construction Payment Disputes
- Mechanic's Liens
- Payment Bond Claims

Construction projects, whether residential or commercial, represent substantial investments and complex undertakings. When defects arise, they can lead to significant financial burdens, safety concerns, and legal disputes for all parties involved – from homeowners and property owners to contractors, developers, and design professionals. Rosen Hagood provides comprehensive legal counsel to both plaintiffs and defendants in construction defect litigation across Charleston and throughout South Carolina.

What Are Construction Defects?

A construction defect is more than an aesthetic imperfection; it is a flaw or deficiency in the design, materials, or workmanship of a building that impacts its intended use, safety, or value. These flaws can often lead to significant structural problems, pose serious safety hazards, and impose considerable financial burdens on property owners.

In South Carolina, these defects can include patent defects, which are visible problems, and latent defects, meaning issues that are hidden but become apparent over time. Common causes of construction defects include defective materials, design errors, faulty workmanship, breach of warranties, or failure to meet building codes and industry standards.

Common South Carolina Construction Defects

Property owners in Charleston and throughout South Carolina frequently encounter a range of construction defects, many of which are exacerbated by the region's unique environmental conditions. We frequently handle cases involving:

- **Water Intrusion and Moisture Issues:** Charleston's humid climate makes properties highly susceptible to water intrusion and moisture-related problems. These issues often originate from improperly sealed windows, doors, or roofing systems, leading to pervasive water leaks, destructive mold growth, wood rot, and significant damage to interior finishes. Exterior cladding systems, including cementitious, wood, or vinyl siding, as well as brick or stone veneer and stucco systems, are also frequent sources of water intrusion defects. The persistent moisture can create an environment ripe for structural decay and health hazards.
- **Foundation Problems:** The Lowcountry's unique soil conditions, characterized by expansive clays or unstable, sandy soil, pose particular challenges for builders. These conditions often result in issues like settlement or uneven settling of the foundation, which can severely compromise a property's structural integrity. Visible manifestations include cracks in slabs, walls, foundations, and ceilings, as well as uneven floors. Such problems can escalate quickly, threatening the stability of the entire structure.
- **Defective Plumbing and Electrical Systems:** Faulty installations or the use of substandard materials in plumbing and electrical systems can create a host of dangerous problems. These range from

persistent leaks and extensive water damage to serious fire hazards, significantly impacting a property's safety and functionality. The hidden nature of these systems often means problems go undetected until significant damage or hazardous conditions arise.

- **Structural Deficiencies:** These defects are among the most dangerous, involving inadequately designed load-bearing elements, substandard structural materials, or improper framing techniques. Such fundamental flaws can endanger building occupants and, in severe cases, lead to catastrophic structural failures. Identifying these issues requires specialized expertise and immediate attention.
- **Building Code Violations:** A fundamental failure to adhere to local building codes and regulations can underpin various construction defects related to zoning, safety, or structural requirements. These violations often signify a systemic disregard for established construction standards and can lead to a cascade of other problems throughout the property.
- **Other Common Issues:** This broad category includes problems such as significant termite damage, often hidden within walls or flooring. Other issues include faulty HVAC systems leading to inefficient heating and cooling, inadequate insulation and soundproofing, pervasive drywall issues, and improper landscaping or drainage that results in persistent water accumulation around the foundation.

The prevalence of water intrusion and foundation problems in Charleston is directly attributable to the region's humid climate and unique soil conditions. This localized understanding of risk factors is crucial for developing effective legal strategies tailored to regional challenges. It is also important to understand that the most significant damage from a construction problem is often hidden and does not become apparent for several years after construction.

Depending on which side of the case you are on, this could be advantageous or detrimental to your case. For the property owner, it's important to investigate and speak to a construction defect attorney as soon as you discover the damage. On the other hand, for a contractor or builder facing a construction defect claim, South Carolina law has time limitations that bars these claims from being brought.

Types of Damages in Construction Defect Cases

When a construction defect leads to legal action, the types of damages sought or defended against are crucial for all parties.

For Claimants (Homeowners/Property Owners): Claimants may be entitled to recover a range of damages designed to make them whole, including:

- **Repair Costs:** Compensation for the direct costs associated with fixing the defective construction and bringing the property up to code or contractual standards. Claimants are generally required to mitigate damages, meaning they must take reasonable steps to prevent further harm to the property (e.g., tarping a leaky roof to prevent water damage), and these mitigation costs are typically recoverable.
- **Diminished Property Value:** Construction defects can significantly reduce the market value of a property. Claimants can seek to recover this loss in value, reflecting the difference between the property's value as promised and its value with the defect.

- **Additional Living Expenses (ALE):** If a residential defect renders the home uninhabitable, homeowners may be entitled to coverage for temporary lodging, reasonable meals, and other living costs incurred while repairs are underway. This ensures that families are not left without a place to live due to a builder's negligence.
- **Attorney's Fees:** In South Carolina, particularly in cases where insurance bad faith is proven, policyholders may be able to recover their attorney's fees, shifting the financial burden of litigation to the responsible party.
- **Punitive Damages:** These damages are awarded not to compensate the victim but to punish the wrongdoer for egregious conduct and to deter similar behavior in the future. They are typically awarded in cases where the misconduct was intentional, reckless, or grossly negligent, especially in bad faith insurance claims.

For Defendants (Contractors/Professionals): For construction industry professionals, understanding the potential scope of damages is critical for risk management and defense strategy. Our firm works to:

- **Limit Exposure:** Defend against inflated claims for repair costs, diminished value, and other alleged losses.
- **Challenge Causation:** Argue that alleged damages were not directly caused by the client's work or were due to other factors.
- **Mitigate Punitive Damages:** Defend against allegations of egregious conduct that could lead to punitive damages.

The pursuit or defense of these comprehensive damages demonstrates our commitment to addressing the full spectrum of a client's losses or liabilities, extending beyond mere repair costs.

Important Time Limits

When defending against a construction defect claim, it's crucial to understand the time limitations set by South Carolina law. These time limitations can prevent property owners from bringing construction defect claims against contractors, builders, and other parties to a construction contract once a specified amount of time has passed.

The two important time limitations to understand when dealing with construction defect claims in South Carolina are the statute of limitations and statute of repose.

- **Statute of Limitations:** Generally, 3 years from defect discovery

The Statute of Limitations for construction defect claims in South Carolina is generally three years. This operates under a "discovery rule," meaning the three-year clock begins to run when the claimant *knows* or *should have known* that a claim exists, even if the precise nature of the defect or the identities of all potential defendants are not yet fully determined. This rule acknowledges that defects may not be immediately apparent.

- **Statute of Repose:** 8 years from substantial completion

The Statute of Repose in South Carolina bars claims from being brought more than eight years after substantial completion of the project, unless certain exceptions are applicable, such when a party is found guilty of fraud, gross negligence, or recklessness.

How We Handle Construction Defect Cases

Whether you are a homeowner bringing a construction defect case against a contractor or a builder defending against a construction defect claim, our team of construction law attorneys guides you through the process from start to finish. Our attorneys work tirelessly on your behalf to achieve the outcome you deserve.

We begin by evaluating your case, reviewing your contracts, assessing your damages and potential recovery, reviewing property inspection and documentation, and explaining your legal options to you. We then work with qualified experts to conduct property investigations, identify any defects and code violations, determine causes and responsible parties, and calculate the full extent of damages. From there, we negotiate on your behalf, and if we cannot reach an acceptable settlement, we'll bring your case to court, calling on our decades of trial experience.

Why Choose Rosen Hagood?

With over 75 years of experience serving Charleston and South Carolina, our team of construction defect attorneys has extensive experience in the construction industry. We work with clients in Charleston, Myrtle Beach, Beaufort, Bluffton, Hilton Head, Greenville, and other areas across the state to help bring and defend against construction defect claims. Our team's in-depth knowledge of building practices, industry standards, building codes, and South Carolina law has allowed us to build a reputation across the state. Throughout our years of experience, we have developed relationships with construction industry experts, including engineers, architects, and other specialists, allowing us to successfully represent our clients.

South Carolina Construction Defect Attorneys

Whether you are a homeowner dealing with the devastating effects of construction defects or a construction professional defending against complex claims, our experienced team represents clients on both sides of construction disputes statewide.

The preservation of your legal rights, protection of your investment, or safeguarding of your business depends on timely and strategic legal engagement. Call our office today to schedule a consultation with a construction defect attorney.